

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>Joseph H. Neff,</b>	)	<b>CASE NO.</b> _____
	)	
<b>Plaintiff,</b>	)	<b>JUDGE</b> _____
	)	
<b>v.</b>	)	
	)	
<b>Arnold Transportation Services, Inc.,</b>	)	
<b>et al.</b>	)	
	)	
<b>Defendants.</b>	)	

**NOTICE OF REMOVAL**

To: The Honorable Judges of the United States District Court for the Southern District of Ohio, and Clerk of the Court of Common Pleas Franklin County, Ohio.

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants Arnold Transportation Services, Inc. and Robert F. Kiel (collectively, “Defendants”) remove this action from the Court of Common Pleas of Franklin County, Ohio to the United States District Court Southern District of Ohio, Eastern Division. As grounds for removal, Defendants state as follows:

1. This is an action in which the District Court of the United States has been given original jurisdiction under 28 U.S.C. § 1332 because complete diversity exists between Plaintiff and Defendants and the amount in controversy exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00).

2. On or about July 31, 2019, Plaintiff filed a Complaint against Defendants in the Court of Common Pleas, Franklin County, Ohio, captioned *Joseph H. Neff v. Arnold Transportation Services, Inc. et al.*, Case No. 19 CV 006188.

3. Neither Defendant Arnold Transportation Services nor Defendant Robert F. Kiel have yet to be served, but both Defendants have notice of Plaintiff's initial pleading and claims for relief.

4. Thus, thirty days have not passed since Defendants were served with a copy of the initial pleading setting forth Plaintiff's claims for relief.

5. Plaintiff Joseph H. Neff is now and at all times relevant to the action a resident and citizen of Madison County, Ohio by virtue of his residence being at 1360 West Choctaw Drive, London, Ohio 43140. (Compl., Caption). Accordingly, pursuant to 28 U.S.C. § 1332(c)(2), Plaintiff is an Ohio citizens for the purpose of assessing diversity jurisdiction.

6. Defendant Arnold Transportation Services, Inc. is a Pennsylvania corporation and is registered with the Federal Motor Carrier Safety Administration with USDOT number 148974 with its principal place of business in Grand Prairie, Texas. Accordingly, Arnold Transportation Services, Inc. is a citizen of Texas for the purpose of assessing diversity jurisdiction.

7. Defendant Robert F. Kiel is now and at all times relevant to the action a resident and citizen of St. Louis, Missouri, by virtue of his residence being at 2170 Green Slope Drive, St. Louis, MO 63136 (Compl., Caption). Accordingly, Robert F. Kiel is a citizen of Missouri for the purpose of assessing Diversity Jurisdiction.

8. Upon information and belief, Plaintiffs seek recovery of unspecified and unliquidated damages in excess of Seventy-Five Thousand Dollars (\$75,000.00). Therefore, the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00).

9. The claimed harm to Plaintiffs was pleaded "in excess of \$25,000.00"<sup>1</sup> against the Defendants .

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<sup>1</sup> Ohio Civ. R. 8(a) ("If the party seeks more than twenty-five thousand dollars, the party shall so state in the pleading but shall not specify in the demand for judgment the amount of recovery sought.")

10. Plaintiff's Complaint states two causes of actions, including claims for unspecified and unliquidated compensatory damages against Defendants. Plaintiff seeks damages for personal bodily injuries, medical bills and future medical bills for injuries to his head, neck and left shoulder, pain and suffering, mental anguish, and permanent injury in an amount presently undetermined arising from a motor vehicle accident which occurred on August 3, 2017 (Compl., ¶ 12).

11. Thus, it is facially evident from Plaintiff's Complaint that the amount in controversy exceeds the jurisdictional minimum of \$75,000.00.

12. Based on a "fair reading" of Plaintiff's Complaint, this Court can reasonably conclude that more than \$75,000.00 is at issue. *Hayes v. Equitable Energy Res. Co.*, 266 F.3d 560, 573 (6th Cir. 2001).

13. A copy of this Notice of Removal will be promptly filed with the appropriate state court, the Franklin County Common Pleas Court, pursuant to 28 U.S.C. § 1446(d).

14. Defendants intend to file a responsive pleading to Plaintiff's Complaint within the time set forth in the *Federal Rules of Civil Procedure*.

15. The United States District Court for the Southern District of Ohio is the appropriate court for filing a Notice of Removal from the Court of Common Pleas Franklin County, Ohio; where the action is currently pending. Accordingly, Defendants seek to remove this action.

16. Pursuant to 28 U.S.C. §1446(a), copies of all pleadings, process and orders filed in this action are attached hereto as Exhibit "A."

17. Pursuant to 28 U.S.C. § 1446(d), Defendants have served a copy of the Notice of Removal upon all adverse parties.

18. All Defendants have consented to removal.

19. Pursuant to 28 U.S.C. 1446(d), Defendants are simultaneously filing a copy of the Notice of Removal with the Clerk of the Court of Common Pleas, Franklin County, Ohio attached hereto as Exhibit “B.”

20. This case is a companion case to *Daniel J. Summers v. Arnold Transportation Services, Inc., et al.*, in this Court, Case No. 2:18-cv-978. Upon Removal of this action, Defendants intend to file a Motion to Consolidate this action with the *Summers* action, as the cases arise out of the same subject motor vehicle accident.

21. Defendants assert their right to a trial by jury.

22. Defendants do not waive any jurisdictional or other defenses available to them.

23. Defendants reserve the right to supplement this Notice of Removal and/or present additional arguments in support of its entitlement to removal.

WHEREFORE, Defendants, pray for the removal of the above-referenced civil action from the Court of Common Pleas, Franklin County, Ohio to the United States District Court for the Southern District of Ohio.

Respectfully submitted,

/s/ Joseph W. Pappalardo

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*Attorneys for Defendants Arnold Transportation  
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**CERTIFICATE OF SERVICE**

I hereby certify *Defendants' Notice of Removal of Civil Action to the United States District Court for the Southern District of Ohio* was electronically filed with the Court on August 8, 2019. Notice of this filing will be sent by operation of the Court's case management and electronic case filing system. A true copy of the foregoing was also served by electronic mail on August 8, 2019 upon the following:

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*/s/ Joseph W. Pappalardo*

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